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TO:	FROM:	
Examiner Man U Phan	Andrew J. Dillon, Reg. No. 29,634	
ORGANIZATION:	DATE:	
US Patent and Trademark Office	October 5, 2005	
ART UNIT:	CONFIRMATION NO.:	TOTAL NO. OF PAGES INCLUDING COVER:
2665	2996	6
FAX NUMBER:	APPLICATION SERIAL NO.:	
571-273-8300	09/373,837	
ENCLOSED:	ATTORNEY DOCKET NO.:	
Notice of Appeal, Pre-Appeal Brief Request For Review, Reason for Pre-Appeal Brief Request For Review	RA9-99-005	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

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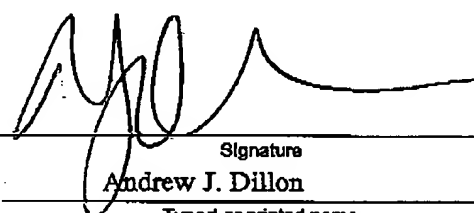
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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) RA9-99-005	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>10-5-05</u> Signature <u>Jane Graham</u> Typed or printed name <u>Jane Graham</u>		Application Number 09/373,837	Filed 08/13/1999
		First Named Inventor Metin Ay6demir	
		Art Unit 2665	Examiner Man U Phan
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature Andrew J. Dillon	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		Typed or printed name	
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>29,634</u>		512-343-6116 Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>10-5-05</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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OCT 05 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: RA9-99-005

In re Application of:

METIN AYDEMIR

Serial No.: 09/373,837

Filed: August 13, 1999

For: DELAYED-START METHOD FOR  
INTERNAL FLOW CONTROL IN PACKET  
SWITCHES§  
§  
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§  
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§  
§  
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§  
§

Examiner: Volper, Thomas E.

Art Unit: 2665

REASON FOR PRE-APPEAL BRIEF REQUEST FOR REVIEWMail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In the final rejection dated July 8, 2005, having a shortened statutory period set to expire October 8, 2005, the Examiner, in paragraph six thereof, rejects Claims 1, 3-6, 22, 24, 26 and 28-30 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.*, United States Patent Number 5,790,522. As Applicant has previously canceled claims 7 and 19 and thus, only Claims 1-6, 8-18 and 20-25 remain pending in this application, the Examiner's rejection will be treated, for purposes of this request, as being applied to Claims 1-6, 8-18, and 20-24.

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Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date shown below.

Typed or Printed Name: Jane Graham Date: October 5, 2005 Signature: 

*Fichou et al.* discloses a method and system for controlling traffic congestion in a data communication network. Data is transmitted between nodes which include a switch fabric for switching the network data between receive adapters connected to network node input lines and transmit adapters connected to network node output lines. Each adapter switch within the *Fichou et al.* reference defines a period of time for pausing transmission, as described at column 8, lines 2-8 thereof. However, as expressly set forth at column 8, lines 12 *et seq.* there are only two timer values T1 and T2. *Fichou et al.* expressly teach "Timer value T1 is used where an NRT packet is being transmitted when congestion is detected. Timer value T2 is used where an NR packet is being transmitted when congestion is detected." Thus, as expressly set forth within *Fichou et al.*, the time period for pausing a transmission is one of two fixed time values which are determined based upon the particular type of packet which is being transmitted once congestion is detected and not based upon input buffer capacity as expressly set forth within the claims of the present application.

In Claims 1,13 and 25 the present invention is described as including a determination of input buffer capacity of an input section during a pause and there after, computing a delay interval "based upon said determined input buffer occupancy...." which may then be utilized to delay restart of data transmission in accordance with that computed delay interval. As *Fichou et al.* expressly teaches the utilization of delay periods which are determined based upon the type of data being transmitted and as *Fichou et al.* is entirely silent with regard to any teaching regarding computing a delay interval based upon input buffer capacity the Examiner's rejection of these claims over this reference is not believed to be well founded.

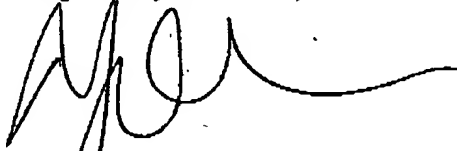
The Examiner has also rejected Claim 25 under 35 U.S.C. § 1.03(a) as being unpatentable over *Fichou et al.* as applied to the other claims and further in view of *Ljungberg et al.*, United States Patent Number, 5,493,566. That rejection is also not believed to be well founded. The Examiner cites *Ljungberg et al.* for its teaching of a flow control system for packet switches which throttles traffic coming from input buffers in response to output buffers reaching a threshold value without regard to priority; however, no teaching within *Ljungberg et al.* cures the deficiency of *Fichou et al.* in that these two references, whether considered alone or in combination, fail to show or suggest in any way the computation of a delay interval based upon input buffer occupancy as expressly set forth within the present claims.

In view of the above, Applicant urges that the Examiner's rejection of these claims is inappropriate and review of those rejections is respectfully requested.

**CONCLUSION**

No additional fee is believed to be required; however, in the event any additional fees are required, please charge IBM Corporation Deposit Account No. 50-0563. No extension of time is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time to IBM Corporation Deposit Account No. 50-0563.

Respectfully submitted,



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